far exceed those needed to address the problem, and far exceeding those that are desirable.

Today's bill, H.R. 1058, is the least problematic of these bills. It addresses a discrete but serious issue—the filing of frivolous securities fraud class action lawsuits. As the Chairman of the Securities and Exchange Commission agrees, this problem clearly exists and may be growing. A very small group of overzealous attorneys pursue these lawsuits, often within hours of a significant change in the price of a stock or security. These attorneys keep on hand stables of professional plaintiffs for these suits, and prey on high-technology companies whose stock prices are naturally volatile. In many cases, companies are forced to settle out of court, rather than endure a lengthy and expensive trial on the merits.

The evidence indicates that such lawsuits are often baseless. However, the costs of defending such suits places a significant drag on high-technology and startup companies, not to mention their directors, officers, and accounting firms.

Without a system of proportionate liability—such as that proposed in H.R. 1058—accounting firms, for example, justifiably fear the prospect of being names as codefendants in these class action lawsuits. As a result, some now choose not to perform accounting and auditing services for this growing sector of our economy.

For these reasons, I had hoped to be able to support a bill that would address the specific problem of securities fraud class action lawsuits in a responsible way. Instead, like so many other bills seeking to enact the so-called Contract With America, we have today considered a bill that far overreacts and far overreaches.

H.R. 1058 did improve somewhat as it moved through the Commerce Committee, both at the subcommittee and the full committee level. Unfortunately, House leaders chose to circumvent the Legislative process in the Judiciary Committee, where further improvements could have been made. Today on the House floor, several valuable amendments to the bill were offered, including one by my colleague from New York [Mr. MANTON]. These amendments were not even considered seriously. I am forced to conclude that proponents of this bill do not intend to pursue reasonable compromise. I hope that the Senate will be more deliberate, and that any future conference agreement might weigh these difficult issues in a more responsible manner.

But at this time, H.R. 1058 contains numerous flaws, including: an unduly burdensome loser pays provision, prohibitive fact pleading requirements, an onerous bond requirement for the filing of class action suits, the need to show scienter rather than recklessness in order to prove securities fraud, et cetera. These are serious defects, which must be responsibly and deliberately addressed. For these reasons, I must now oppose passage of H.R. 1058, but hope it will be moderated significantly in conference with the Senate, so that I could then support final passage of the conference report.

ATTORNEY ACCOUNTABILITY ACT OF 1995

SPEECH OF

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, March 6, 1995

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 988) to reform the Federal civil justice system.

Mr. STOKES. Mr. Chairman, I rise in strong opposition to H.R. 988, the Attorney Accountability Act of 1995. While I am aware of the current excitement in the Congress to do anything perceived as promoting the interests of the rich, and big corporations, I am also mindful of my duty as a Member of Congress to act in the best interest of the all the people I represent and in the best interest of the U.S. Constitution I have sworn to uphold.

We cannot and should not, in an attempt to decrease the amount of frivolous lawsuits, shirk our responsibility to act in the best interest of poor and hard working Americans by disrespecting the Founding principles of the American justice system—over 200 years of common law. This shortsighted and rushed legislation will not only fail to reform or enhance the legal system in the United States, but will endanger the delicate balance of power between rich and poor, powerful and weak, so skillfully and wisely crafted over 200 years of development in the courts of this Nation.

The bill before us today, the Attorney Accountability Act of 1995, will not only attempt to curtail unwanted lawsuits, but will also make it impossible for regular Americans to have access to the Federal courts. Such an assault on American citizens' rights to access to the courts is an outrage. This restrictive bill will certainly undermine many of our most important efforts to provide a forum that promotes equality for all Americans.

Mr. Chairman, the stated purpose of the Attorney Accountability Act is to require one party to pay the other's attorney fees and other legal costs if that party rejects a settlement offer, and then receives less in the judgment at trial. Republican proponents have stated that this provision is intended to discourage frivolous lawsuits, and encourage parties to settle disputes prior to trial. This bill also establishes new restrictions on the use of scientific evidence, by establishing a presumption of inadmissability. Finally, the bill requires judges to impose sanctions on attorneys for making frivolous arguments.

This legislation, which would result in limiting citizens' access to our Federal courts, warps the American justice system to such an extent that the motives of the drafters of this legislation should be seriously questioned. While I agree that Congress should continue to make significant strides to improve the quality of litigation in this country, this proposed measure goes well beyond the legitimate objective of balancing the interests of regular working people and corporate America. In fact, this bill will inhibit the will of the people by transferring all of the power of rendering justice in the courts to the wealthy, well-connected, and privileged.

The clear result of the imposition of a lower pays rule would be to destroy Americans' constitutionally guaranteed right to have access to the Federal courts through diversity jurisdiction. Article III of the U.S. Constitution guarantees diversity jurisdiction and unequivocally states: ''The judicial power shall extend to all cases * * * between citizens of different States * * *.'' The 14th and 15th amendments declare that no State ''shall deprive any person of life, liberty, or property without due process of law, nor deny to any person within its jurisdiction the equal protection of laws.'' The 14th and 15th amendments were clearly intended to ensure all Americans access to the courts of this country for the protection of their persons and property, to redress wrongs and to enforce contracts. Without free access to the courts, Americans' constitutional rights will be abrogated. By imposing on working Americans what could be substantial costs for bringing an unsuccessful claim, H.R. 988 locks the Federal courthouse doors, and gives the rich the key.

Mr. Chairman, not only would transferring the power in litigation to the wealthier party be clearly contrary to the course of 200 years of American common law, the reasoning behind this unfair and unjust bill is not supported by the facts. So-called frivolous lawsuits actually make up a minute portion of all lawsuits litigated in this Nation. Under current law, the Federal rules of civil procedure give judges the opportunity to hold attorneys accountable for bringing frivolous lawsuits. Rule 11 of the Federal rules of civil procedure presently authorize Federal courts to impose sanctions upon attorneys, law firms, or parties for engaging in inappropriate conduct or for bringing frivolous or harassment lawsuits. The facts clearly show that despite the fact that there were thousands of cases filed last year, in less than 1 percent of those cases did Federal judges determine that rule 11 sanctions were justified.

H.R. 988 would remove from the wise discretion of a Federal judge the determination of how to impose rule 11 sanctions. My colleagues on the other side of the aisle have often claimed that they favor retracting the tentacles of the Federal Government from local people, who best know and understand the issues they face. Yet, this bill flies in the face of this often touted Republican ethic. H.R. 988 removes from a Federal judge who has heard the evidence, knows the parties, and lives in the community, the discretion to make a determination of when to impose rule 11 sanctions. This modification of the Federal rules is unjustified, ill-advised and will lead to injustice for working and middle-class Americans.

For over 200 years, the American legal system has developed a system that keeps frivolous suits to a minimum. The free market has established contingent fee arrangements that create an enormous disincentive for plaintiffs who seek to initiate frivolous lawsuits. Contingent fee cases permit working- and middle-class Americans to have access to attorneys whose fees they could not normally afford. This does not mean that these plaintiffs currently incur no costs or risks. Plaintiffs are often faced with substantial court costs and attorney expenses that must be paid up front and are often nonrefundable, win, or lose.

The reality of the economics of contingent fee arrangements make it economically ill-advisable to bring, support or litigate frivolous claims. H.R. 988's so-called attack on frivolous

lawsuit is, in fact, an attack on the access of regular Americans to the courts, and subverts the economic realities of contingent fee litigation that already discourages frivolous lawsuits.

Mr. Chairman, this legislation is unsurpassed in its compromise of the balance of powers between litigants in our Nation. With very little opportunity for open hearing, and with limited debate, this measure has been placed before us. A measure of this kind requires detailed analysis of the impact it may have on the American people, and one of the greatest pillars of the American Republic: The people's access to the courts—but no such review has, or will, take place. In the current rush to force this bill through the House, the interests of the American people and the American justice system will certainly be compromised on the altar of corporate greed. I urge my colleagues to join with me, and vote against this bill.

ATTORNEY ACCOUNTABILITY ACT OF 1995

SPEECH OF

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 6, 1995

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 988) to reform the Federal civil justice system.

Mr. PACKARD. Mr. Chairman, our society is consumed by lawsuit fever—sue the producer, sue the manufacturer, sue the seller. Frivolous lawsuits clog our courts and impose tremendous costs on American workers and consumers. Americans want a legal system that promotes civil justice, not greed.

The only winners in the game of lawsuit abuse are the lawyers. Consumers lose and workers lose. Lawsuit abuse scares away jobs and stifles innovative new products. Consumers pay the tab for excessive litigation costs and jury awards through higher prices and outrageous insurance premiums. These litigation taxes cost Americans $130 billion a year. Fairness no longer exists in our current civil justice system. Hardworking consumers should not pay the tab for legal tactics and judicial abuse.

Our Republican commonsense product liability and legal reform bill, H.R. 988, works to restore national fairness and common sense to a judicial system spinning out of control. H.R. 988 puts an end to frivolous, excessive lawsuits by capping damages at $250,000 or three times the amount of economic damage. Furthermore, it requires plaintiffs to prove that harm was flagrantly intended by the defendant.

The commonsense product liability and legal reform bill restores accountability and responsibility. H.R. 988 provides a remedy for America's litigation fever, while ensuring that justifiable claims will be fairly tried and rewarded. Americans are tired of supporting a civil justice system that abuses their rights and freedoms as workers and consumers.

TRIBUTE TO THE DISTINGUISHED ELECTED WOMEN OFFICIALS IN EDUCATION OF CALIFORNIA'S 14TH CONGRESSIONAL DISTRICT

HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 9, 1995

Ms. ESHOO. Mr. Speaker, I rise today during National Women's History Month to salute the remarkable women of California's 14th Congressional District who have been entrusted with the honor and sacred duty of educating our youth.

This year, as we celebrate the 75th anniversary of women's suffrage, it is fitting that we honor the women who devote their time and talents to preserving and enhancing our public education system. The efforts and public service of these remarkable women provide our district with extraordinary leadership, and our excellent school systems benefit from their unique ideas and skills. While we take time during this month to commemorate historic women and their achievements, we also take this opportunity to honor the contributions women in education are currently making to our communities.

The 14th Congressional District's distinguished women elected officials in education are: Boardmember Helen Hausman of the San Mateo County Community College District; Boardmembers Mary Mason, Judith Moss and Dolly Sandoval of the Foothill/De Anza Community College District; Boardmembers Susan Alvaro and Beverly Willis-Gerard of the San Mateo County Board of Education; Boardmembers Maria Ferrer, Anna Kurze and Andrea Leiderman of Santa Clara County Board of Education; Boardmembers Nancy Gisko, Francesca Karpel and Nancy Kehl of the Belmont Elementary School District; Boardmembers Toni Foster, Mary Freeman-Dove, Ruth Palmer and Marina Stariha of the Cabrillo Unified School District; Boardmembers Debbie Byron, Sandra James and Emily Lee Kelley of the Cupertino Union School District; Boardmember Nancy Newton of the Fremont Union High School District; Boardmembers Tracey Demma, Janet Gomes-Simms, Erika Perloff and Connie Sarabia of the La Honda-Pescadero Unified School District; Boardmembers Kerry Bouchier and Elyce Haskell of the Las Lomitas Elementary School District; Boardmembers Gerri Carlton and Terri Sachs of the Los Altos School District; Boardmembers Karen Canty, Margaret Draper and Valerie Rynne of the Menlo Park City Elementary School District; Boardmembers Donnal Larson, Ann Lewis and Leslie Pantling of the Montebello School District; Boardmembers Marta Clavero-Pamilla, Rose Marie Filicetti, Nancy Mucha and Susan Ware of the Mountain View School District; Boardmembers Lynn Alvarado, Ann Baker, Sue Graham and Judy Hanneman of the Mountain View-Los Altos Union High School District; Boardmembers Julie Jerome, Diane Reklis and Susie Richardson of the Palo Alto Unified School District; Boardmembers Holly Meyers, Kathryn Reavis and Pat Steuer of the Portola Valley Elementary District; Boardmembers Lois Frontino, Donna Rutherford and Keisha Williams of the Revenswood City Elementary School District; Boardmembers Terri S. Bailard, Patricia Brown and Magda Gonzalez-Hierro of the Redwood City Elementary School District; Boardmembers Joy L. Ferrario and Beth Hunkapillar of the San Carlos Elementary School District; Boardmembers Beverly Scott, Allene Seiling and Sarah Stewart of the Sequoia Union High School District; Boardmembers Linda Kilian, Pamela Kittler, Ellen McHenry and Margaret Quillinan of the Sunnyvale School District; Boardmembers Fran Kruss and Sanda Jo Spiegel of the Whisman School District; and Boardmembers Heidi Brown, Ann Nolan and Abby Wilder of the Woodside Elementary School District. Appointed leaders include Colleen Wilcox, Superintendent of the Santa Clara County Office of Education, Martha Kanter, President of DeAnza College, and Bernadine Fong, President of Foothill College.

Mr. Speaker, I ask my colleagues to join me in honoring these remarkable women whose leadership, expertise and commitment have made California's 14th Congressional District a wonderful place to live and learn. These great leaders are fitting representatives of the many women who make history every day and are the shapers of the young women who will make history in the future.

H.R. 510, THE MISCLASSIFICATION OF EMPLOYEES ACT

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 9, 1995

Mr. LANTOS. Mr. Speaker, I rise today to say a few words about the job classification of workers, and to urge my colleagues to support H.R. 510, the Misclassification of Employees Act.

Small business men and women have contacted many of us to explain some of the important reasons why Congress should take another look at how workers are classified for Federal income and employment tax purposes, as well as for many non-tax purposes. We know that confusion with employee classification rules can lead to costly disputes with the IRS with devastating effects on small businesses. These costs include, among others, assessments of back taxes, interest and penalties for businesses which misclassify workers as independent contractors, as well as the legal costs involved with coming into compliance with or defending against an IRS audit.

There are other issues relating to the misclassification of workers that arise out of the current procedures for determining who is an employee and who is an independent contractor, including the effect of misclassification on the unsuspecting worker, the effect of misclassification on the honest businessman trying to compete with a competitor who has misclassified his workers, and the effect of misclassification on the Federal budget deficit. H.R. 510 would remedy some of the unintended effects that arise out of the current procedures for determining who is an employee and who is an independent contractor.

I would like to make clear from the outset, however, that I agree with and recognize the appropriate and valuable roles of those who work as independent contractors. This country has benefited greatly from the spirit and independence of the self-employed individual and